

Addendum B

Addendum B: IBM's Objections to SCO's Alleged Evidence

<p>Testimony from SCO employee describing SCO's distribution of SCO Linux Server 4.0 as part of UnitedLinux and stating that SCO made no modifications or additions to the Linux kernel. (SCO GPL Br. ¶¶ 4-7.)</p>	<p>SCO Ex. 233.</p>	<p>Irrelevant; Improper legal conclusion.</p>
<p>Testimony from SCO employees interpreting the GPL, stating that SCO complied with certain sections of the GPL, claiming that SCO has never repudiated the GPL and has endeavored to comply with its obligations under the GPL, and stating that SCO</p> <p style="text-align: center;">SECTION REDACTED</p> <p>(SCO GPL Br. ¶¶ 12, 15, 21, 23, 54.)</p>	<p>SCO Ex. 324; IBM Ex. 284; IBM Ex. 300; IBM Ex. 324.</p>	<p>Irrelevant; Improper legal conclusion.</p>
<p>Statements from SCO filings that IBM's claims are barred by the GPL and that SCO has acted within its rights under the GPL. (SCO GPL Br. ¶¶ 22-23.)</p>	<p>SCO Ex. 153; IBM Ex. 5.</p>	<p>Irrelevant; Improper legal conclusion.</p>

SCO Ex. 311; IBM Ex. 324; IBM Ex. 330.	SCO Ex. 49; IBM Ex. 284; IBM Ex. 296; IBM Ex. 300; IBM Ex. 311; IBM Ex. 324; IBM Ex. 330.	Irrelevant.
<p>Testimony from SCO employees stating that SCO has not attempted to sell a UNIX License to anyone who received a Linux distribution from SCO and that SCO's Linux sales after May 2003 were limited only to comply with contractual obligations. (SCO GPL Br. ¶¶ 34, 36-38, 47-48.)</p> <p>Statement that Linux SECTION REDACTED (SCO GPL Br. ¶ 40.)</p>	SCO Ex. 276	<p>Untimely expert opinion; Improper expert opinion under FRE 702; No foundation.</p>
<p>IBM documents referring to Linux as a ' and stating that ' SECTION REDACTED (SCO GPL Br. ¶¶ 42-44.)</p>	SCO Ex. 328; SCO Ex. 339.	<p>Irrelevant; No foundation or personal knowledge; Hearsay.</p>
<p>Third party opinions comparing Linux and UNIX. (SCO GPL Br. ¶¶ 45-46.)</p>	SCO Ex. 334; SCO Ex. 340.	<p>Irrelevant; No foundation or personal knowledge; Improper expert opinion under FRE 702; Hearsay.</p>

Testimony from SCO employee concerning alleged "hacking" by IBM into UNIX. (SCO GPL Br. ¶¶ 50-51.)	SCO Ex. 49.	No foundation or personal knowledge; Irrelevant.
Testimony from SCO employees concerning lack of notice by IBM regarding SCO's infringement, stating that the last of SCO's contractual obligations to Linux customers ended nearly two years ago, and stating that SCO has no existing Linux customers, no contractual obligations to former Linux customers and does not provide (or plan to provide) customer support for Linux.. (SCO GPL Br. ¶¶ 53, 60, 61.)	SCO Ex. 49; SCO Ex. 233; IBM Ex. 284; IBM Ex. 300; IBM Ex. 311; IBM Ex. 324.	Irrelevant; Improper Legal Conclusion.